



800 Boylston Street Boston, Massachusetts 02199

**JOHN COPE-FLANAGAN**

NSTAR Electric & Gas Corporation  
Assistant General Counsel  
Direct Dial: (617) 424-2103  
Telecopier: (617) 424-2733  
John\_Cope-Flanagan@nstaronline.com

January 14, 2002

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station  
Boston, MA 02110

**Re: D.T.E. 01-54 (Phase II) – Reply Comments of NSTAR Electric**

Dear Ms. Cottrell:

This Reply Letter is filed on behalf of Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company, d/b/a NSTAR Electric ("NSTAR Electric"), responding to the Initial Comments filed on January 4, 2002 by other participants in the above-referenced proceeding.<sup>1</sup> NSTAR Electric will not repeat its initial comments and these reply comments will be limited.<sup>2</sup>

The Department sought comment in this phase of the proceeding on several issues focused on encouraging transactions between customers and

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<sup>1</sup> NSTAR Electric has reviewed comments filed by the following participants: AES New Energy, Inc., Green Mountain Energy Company, National Energy Marketers Association, The NewPower Company, SmartEnergy, Inc., and Strategic Energy Ltd., (together, the "Competitive Suppliers"), the Division of Energy Resources ("DOER"), Dominion Retail, Inc. ("Dominion"), Duke Energy Trading and Marketing, L.L.C. ("Duke"), the Massachusetts Chapter of the National Association of Industrial and Office Properties ("NAIOP"), Massachusetts Electric Company ("MECo"), the Massachusetts Union of Public Housing Tenants ("MUPHT"), the National Consumer Law Center ("NCLC") (filed jointly with MUPHT), the Office of the Attorney General (the "Attorney General"), PowerOptions, Inc. ("Power Options"), Select Energy, Inc. ("Select"), Usource, L.L.C. ("Usource") and Western Massachusetts Electric Company ("WMECo").

<sup>2</sup> Silence as to any matter raised in a participant's initial comments should not be construed as acquiescence to any specific position taken.

competitive suppliers ("Suppliers"), including distribution company brokerage of such transactions, the addition of customer information on customer lists ("Customer Lists") and the use of the Internet to share data between Suppliers and distribution companies. The initial comments revealed that the majority of the participants had similar views on whether distribution companies should broker electricity transactions through Internet auctions. Except for Usource and DOER,<sup>3</sup> no commenter explicitly supported distribution companies brokering transactions through Internet auctions, with many citing cost barriers for Suppliers (see Competitive Suppliers Initial Comments at 3; MECo Initial Comments at 3; WMECo Initial Comments at 2-3). However, as an alternative to an Internet auction, NSTAR Electric's program to encourage its customers to allow their detailed load and historical usage information to be available via our web-site will facilitate Suppliers' access to customers, and at no cost to Suppliers. Moreover, because customers who participate in the program would clearly have an interest in being solicited by Suppliers, Suppliers' costs to identify and market to these customers will be significantly reduced, thereby facilitating Supplier transactions with these customers. Accordingly, the Department should encourage voluntary efforts by distribution companies to facilitate Supplier transactions with customers and not require a specific means of brokering deals in the electricity market.

In addition to Internet auctions, the vast majority of participants did not support distribution companies either: (1) obtaining direct authorizations from customers to enroll them with Suppliers; or (2) directly enrolling customers without their affirmative consent.<sup>4</sup> These proposals fail to recognize that Suppliers, in large part, are not yet willing to provide their services to residential customers. Moreover, the involuntary, direct enrollment of customers would be in violation of the Electric Restructuring Act of 1997's provisions mandating the affirmative consent of customers prior to enrollment. G.L. c. 164, § 1F(8). Accordingly, these proposals should be rejected by the Department.

Most participants also opposed the Department requiring distribution companies to share customer account numbers with Suppliers, without the affirmative consent of customers. Participants that advocated for the sharing of account numbers did so for two purposes: (1) to facilitate enrollment of customers (see Dominion Initial Comments at 3; Select Initial Comments at 2); and (2) to

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<sup>3</sup> Although DOER supported the concept of distribution companies brokering transactions through Internet auctions, it reserved its rights on supporting any specific Internet auction proposal (DOER Initial Comments at 4).

<sup>4</sup> Only the Attorney General, the Competitive Suppliers and Dominion supported obtaining direct authorizations from customers and only the Competitive Suppliers supported directly enrolling customers (see Attorney General Initial Comments at 4; Competitive Suppliers Initial Comments at 3-6; Dominion Initial Comments at 2).

provide Suppliers with a unique customer identifier for purposes of ensuring that Customer Lists are properly updated to eliminate those customers that have chosen to "opt-out" of inclusion on such a list (see Competitive Supplier Initial Comments at 7-9; DOER Initial Comments at 6-7). Most participants that were opposed to sharing account numbers with Suppliers cited the potential that Suppliers could use account numbers to switch customers without their consent. However, to the extent that the Department determines that a unique identifier, and not a customer's account number, is an appropriate means to ensure that Suppliers are able to identify customers who have "opted-out," NSTAR Electric does not oppose developing such an identifier. Although some participants suggested that a customer's meter number could be used as a unique identifier, there were no detailed comments on how that may be implemented in practice. Therefore, the Department should direct the Electronic Business Transactions ("EBT") Working Group to develop unique identifiers and report to the Department on suggestions for an industry-wide protocol for such identifiers. Unlike the sharing of account numbers, the majority of participants supported dropping the practice that the first four characters of a customers account name be required to enroll a customer.<sup>5</sup> This practice could be eliminated in short order and provide an immediate benefit to Suppliers without adversely affecting customers.

Regarding the inclusion of additional information on Customer Lists, there was general consensus that information regarding both: (1) a customers' service delivery points; and (2) customers taking service from Suppliers should be included on Customer Lists.<sup>6</sup> In addition, there was broad consensus that the electric industry was moving toward using the Internet as a means of data exchange. However, consistent with the comments of DOER, MECo and WMECo, the Department should allow the EBT Working Group to discuss the technical and financial issues surrounding Internet data exchanges and report its

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<sup>5</sup> Only the Attorney General opposed changing this practice for all customers (Attorney General Initial Comments at 5). The Competitive Suppliers, DOER and Select supported dropping the requirement for commercial and industrial customers but not for residential customers (Competitive Suppliers Initial Comments at 9-10; DOER Initial Comments at 7; Select Initial Comments at 3).

<sup>6</sup> Only the Attorney General and PowerOptions opposed both of these proposals (Attorney General Initial Comments at 5-6; PowerOptions Initial Comments at 2). NAIOP opposed including information on Customer Lists regarding customers taking service from suppliers (NAIOP Initial Comments at 3). WMECo sought clarification regarding the definition of "service delivery point" without taking a position on whether to include such information on Customer Lists (WMECo Initial Comments at 3-4).

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progress to the Department in the near term (see DOER Initial Comments at 9; MECo Initial Comments at 9; WMECo Initial Comments at 4).<sup>7</sup>

In summary, the Department's efforts to encourage the development of the competitive electricity market will likely be facilitated by the comments received on January 4, 2002. NSTAR Electric appreciates this opportunity to offer these reply comments and looks forward to working with the Department over the coming months to achieve its goal of reducing regulatory barriers for suppliers and customers that wish to participate in the competitive electricity market.

Sincerely,

  
John Cope-Flanagan

cc: Jeanne Voveris, Hearing Officer  
Service List (by electronic mail)

<sup>7</sup>

Indeed, the Competitive Suppliers' suggestion that Internet data transfers could be accomplished through an XML or Java format fails to recognize that redefining the standards and formats necessary to transfer data by these means would be a tremendous undertaking for the distribution companies and Suppliers (see Competitive Suppliers Initial Comments at 12-13). Their comments provide further support for allowing the EBT Working Group to discuss and resolve the technical issues surrounding the use of the Internet for data transfers.